

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

WALT DISNEY PARKS AND RESORTS U.S.
d/b/a WALT DISNEY WORLD CO.

Employer

and

Case 12-UC-203052

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, LOCAL 385

Petitioner

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RESPONDENT WALT DISNEY PARKS & RESORTS U.S.’
MOTION TO STAY

The Employer, Walt Disney Parks and Resorts U.S., by and through its undersigned counsel and pursuant to Rule 102.67(j), hereby files this Motion to Stay and states as follows:

1. On May 8, 2018, the Regional Director issued a Decision and Order Clarifying Bargaining Units (“Decision”) clarifying the existing bargaining unit to include Ride Service Associates (“RSAs”). The Employer employs 74 RSAs, with the possibility of significant growth. (Tr. 49:16-24, 72:1-3.)¹

2. On May 22, 2018, the Employer filed a Request for Review (“Request”) with the Board, explaining that the Regional Director’s Decision raises substantial questions of law and policy and reflects a significant departure from established Board precedent. The Employer contends that the Decision warrants review and reversal by the Board.

3. Pursuant to Rule 102.67(j)(1)(ii), “[a] party requesting review may also move in writing to the Board for...[a] stay of some or all of the proceedings.” The Board will grant a stay

¹ References to the hearing transcript is cited to as “Tr.” followed by the page number and then the line numbers.

“upon a clear showing that it is necessary under the particular circumstances of the case.” NLRB Rules and Regulations § 102.67(j)(2). In this case, a stay is warranted.

4. The Board has applied this Rule to parties requesting to stay representation elections. *See, e.g., Yale Univ.* 2017 NLRB LEXIS 50 (2017) (denying motion stay scheduled election); *The Wash. Univ.*, 2017 NLRB LEXIS 526 (2017) (same). This makes sense, as the Board must balance the basis for the request to stay (i.e., why an election should not proceed) and the employees’ right to a self-determination election.

5. The instant matter, however, presents a different issue. Here, the Union has sought to accrete RSAs into the bargaining unit through a unit clarification petition. By granting the Union’s unit clarification petition, the Regional Director’s Decision clarified the bargaining unit to automatically include RSAs in the unit without an election. This is not just a case of moving forward with an election process pending a Board decision. Absent a stay of the Regional Director’s Decision, the Parties will technically be under a duty to bargain or face possible unfair labor practice proceedings.

6. Absent a stay pending the Board’s consideration of the Request, the Parties must include RSAs in the bargaining unit without the benefit of knowing whether the Decision is, in fact, final. This could result in material prejudice to all concerned including the RSAs.

7. Inclusion of RSAs in the bargaining unit could necessitate a wholesale shift in the terms and conditions of RSAs’ employment, as the Parties will be required to bargain over the application of the collective bargaining agreements.² If the Board grants the Request and reverses the Regional Directors’ Decision, RSAs’ terms and conditions of employment will be further disrupted, since the collective bargaining agreements would then no longer apply and the RSAs

² The Employer refers the Board to the information provided in Section III.C of the Request regarding the significant differences in the terms and conditions of RSAs and bargaining unit members.

would be subject to yet another wholesale shift in their terms and condition of employment. Accordingly, the absence of a stay could result in significant prejudice to all concerned.

8. For the reasons set forth in the Employer's request, it is evident that the Regional Director's Decision is a significant departure from established Board precedent. Accordingly, interim relief is necessary to prevent the aforementioned scenario in which material changes are made to RSAs terms and conditions of employment. Such interim relief, in the form of a stay pending the Board's final determination, is necessary to ensure labor stability, which is the very purpose of the Act.

WHEREFORE, the Employer respectfully moves the Board to stay the Regional Director's Decision until such time as the Board issues its final determination in this matter.

Dated this 22nd day of May, 2018.

Respectfully submitted,

By: /s/ Andrew S. Hament

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of May, 2018, a true and correct copy of the foregoing was electronically filed with the National Labor Relations Board using its Agency website; and a copy was served on Thomas J. Pilacek via e-mail (tpilacek@pilacek.com).

/s/ Andrew S. Hament

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